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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 BREND A LEE E S T E R L Y ,

9 Plaintiff,

10 v.

11 SEERA CORPORATION, UNITED
12 PACIFIC STORE 23560, and UNITED
13 PACIFIC OIL,

14 Defendants.

CASE NO. 3:23-cv-5060

ORDER DISMISSING DEFENDANT
SEERA CORPORATION

15 Plaintiff Brenda Lee Esterly filed this case against the Seera Corporation,
16 United Pacific Store 23560, and United Pacific Oil on January 23, 2023. Dkt. No. 1.
17 Summonses were issued as to Defendants Seera Corporation, United Pacific Store
18 23560, and United Pacific Oil on February 6, 2023. Dkt. No. 3. Esterly has not filed
19 proof of service. Seera raised a “lack of service of process” as a defense in its answer
20 to the complaint. Dkt. No. 9 at 3. On June 2, 2023, Seera moved to dismiss the
21 complaint. Dkt. No. 11. Esterly did not respond to the motion. *See generally Dkt.*

22 Fed. R. Civ. P. 4(m) requires plaintiffs to serve defendants within 90 days
23 after filing a complaint. Failure to serve a defendant within 90 days after the filing
of the complaint is grounds for dismissal of the claims against the unserved

1 defendant. Fed. R. Civ. P. 4(m). Courts cannot exercise personal jurisdiction over a
2 defendant unless a plaintiff has substantially complied with the service
3 requirement of Federal Rule of Civil Procedure 4.

4 Per Local Civil Rule 7(b), Esterly's failure to respond to Seera's motion may
5 be deemed consent to entry of a dismissal order. *See* LCR 7(b)(2) ("[I]f a party fails
6 to file papers in opposition to a motion, such failure may be considered by the court
7 as an admission that the motion has merit."). The Court deems Esterly's failure to
8 respond to this motion as an admission.

9 Having reviewed Seera's motion and the remainder of the record, the Court
10 agrees that all claims against Defendant Seera Corporation should be dismissed
11 without prejudice.

12 In sum, the Court ORDERS:

- 13 1. Defendant Seera Corporation's motion to dismiss (Dkt. No. 11) is
14 GRANTED, and all claims against it are DISMISSED without prejudice.
15 2. Plaintiff has 14 days to show cause why her claims against United Pacific
16 Store 23560 and United Pacific Oil should not also be dismissed without
17 prejudice under Fed. R. Civ. P. 4(m) for failure to effect timely service.

18 Dated this 7th day of November, 2023.

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20 Jamal N. Whitehead
21 United States District Judge
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